further prosecution of a suit commenced in a foreign jurisdiction. *Love* v. *Baker*, Freem. Ch. 125, 1 Ch. Cas. 67; *Carroll* v. *The Farmers' & Mechanics' Bank*, Har. (Mich.) 197; *Mead* v. *Merritt*, 2 Paige (N. Y.) 402. This view apparently obtains in Illinois to-day, on the ground that any other rule would be inconsistent with interstate harmony. *Harris* v. *Pullman*, 84 Ill. 20. This does not seem to follow, however, as the court of equity is not interfering with another state's proceedings; it is simply laying a personal prohibition upon the defendant. See 2 STORY, EQUITY JURISPRUDENCE, 13 ed., § 899. This is generally agreed to-day, and if necessary, courts will enjoin such suits. *Lord Portarlington* v. *Soulby*, 3 Mylne & Keen 104; *Kempson* v. *Kempson*, 58 N. J. Eq. 94. See 15 HARV. L. REV. 145. But in the absence of fraud or manifest injustice, the court will generally, in its discretion, refuse to interfere, as its decree may come into conflict with one rendered in the other state. *Carson* v. *Dunham*, 149 Mass. 52, 20 N. E. 312; *The Bank of Bellows Falls* v. *The Rutland & Burlington R. Co.*, 28 Vt. 470. In the principal case there would seem to be no such fraud or inequity as would justify the granting of the decree, and the case could be disposed of on this ground. But the court refuses the injunction because the defendant is not domiciled in North Carolina, reasoning that the jurisdiction of equity to enjoin a foreign suit is based on the theory that a resident of a state owes obedience to that state and that the state has a right to control his personal relations with other citizens of the state. This doctrine of allegiance is important in Roman law, but has no place in our law. See HOLLAND, ELEMENTS OF JURISPRUDENCE, 9 ed., 401. What the court probably means to say is that since an injunction can act only *in personam*, it should not be issued unless the court has some means of enforcing its decree. If the defendant is not domiciled in the state and has no property in the state which can be sequestered, the court has no means of rendering its decree effective and therefore the decision in the principal case seems clearly correct.

INSURANCE — RIGHTS OF APPLICANT — COMPANY LIABLE FOR AGENT'S FAILURE TO FORWARD APPLICATION. — The agent of the defendant insurance company negligently failed to forward to its home office an application for life insurance signed by the plaintiff's intestate a month before his death. But for this neglect the plaintiff's intestate would have been insured by the defendant. *Held*, that the plaintiff may recover in tort. *Duffie* v. *Banker's Life Ass'n of Des Moines*, 139 N. W. 1087 (Iowa).

The court reasons that because the defendant solicited business "under a franchise from the state," it was bound to give prompt attention to all applications. But the mere soliciting of an offer creates no duty to consider it. *Harris* v. *Nickerson*, L. R. 8 Q. B. 286. And the alleged franchise consists simply in the defendant's charter and license to write insurance. This license, like those issued to physicians, is a mere certificate of compliance with the police regulations governing the defendant's business. *Commonwealth* v. *Vrooman*, 164 Pa. 306, 320, 30 Atl. 217, 220. Certainly neither such a license nor a corporate charter imposes, without more, a duty to serve the public. Nor is the insurance business in itself a public calling. Any applicant may be rejected, even under statutes forbidding discriminatory rates. See *Queen Insurance Co.* v. *State*, 86 Tex. 250, 270, 24 S. W. 397, 404. *Cf.* CODE OF IOWA, 1907, § 1782. No public duty, therefore, bound the defendant to consider this application. On the other hand, any person who, at another's request, enters upon the transaction of business in his behalf, is liable, though unpaid, for negligence, even though it be non-feasance, in executing his commission. *Robinson* v. *Threadgill*, 13 Ired. (N. C.) 39; *Johnston* v. *Graham*, 14 U. C. C. P. 9. *Coadon* v. *Exter-Hall Brokerage Agency*, 142 N. Y. Supp. 548. In filling out an application the agent acts on behalf of the company. *Union*

Mutual Life Ins. Co. v. *Wilkinson*, 13 Wall. (U. S.) 222. *A fortiori* he does so in undertaking to forward it to headquarters. It follows that when the defendant, through its authorized agent, received the application for transmission to its home office, it became liable for failure to transmit it, in accordance with the principle stated above. This liability, since it grew out of the relation of agency toward the applicant, which the defendant assumed, sounds in tort. *Robinson* v. *Threadgill, supra.* There is no logical difficulty in a corporation's becoming bound to submit an offer to one of its own departments when it has actually undertaken so to do. The principal case therefore seems correctly decided. *Boyer* v. *State Farmer's Mut. Hail Ins. Co.*, 86 Kan. 442, 121 Pac. 329.

LIBEL AND SLANDER — PRIVILEGED COMMUNICATIONS — EFFECT ON PRINTER OF MALICE IN AUTHOR. — The plaintiff sued jointly the author and the printer of a certain pamphlet, for defamatory statements therein contained. The occasion was privileged as regards the author, but he was actuated by malice. There was no malice in the printer. *Held*, that both were jointly liable. *Smith* v. *Streatfeild*, 29 T. L. R. 707.

The publisher and the author of defamatory matter can be sued jointly for the publication. *Munson* v. *Lathrop*, 96 Wis. 386, 71 N. W. 596. Such a publication is actionable *per se*, subject, however, to such defenses as truth and privilege. *Bromage* v. *Prosser*, 4 B. & C. 247; *Ullrich* v. *New York Press. Co.*, 23 Misc. (N. Y.) 168, 50 N. Y. Supp. 788. The reasoning of the present case is not free from the confusion which has followed the doctrine of legal malice, and its rebuttal by proof of privilege. See *Jackson* v. *Hopperton*, 12 Wkly R. 913. The result can be reached by straightforward reasoning without reverting to any such antique fiction. See 60 Univ. of Pa. L. Rev. 365. In the principal case the printer published at his peril. He himself had no defense of privilege. Had there been no malice, he would have acquired a *primâ facie* defense by virtue of the author's privilege. *Baker* v. *Carrick*, [1894] 1 Q. B. 838. But there was malice in the author, hence the author's *primâ facie* defense of privilege fell. *Stevens* v. *Sampson*, 5 Ex. D. 53. Thus having no defense himself, and acquiring none from the author, the printer's absolute liability remained, making him jointly liable.

NEGLIGENCE — DEFENSES — ILLEGAL ACT OF PLAINTIFF. — The plaintiff while riding in an unregistered automobile, was injured at a railroad crossing through the negligence of the defendant railroad. *Held*, that the plaintiff may recover. *Lockbridge* v. *Minneapolis & St. L. Ry. Co.*, 140 N. W. 834 (Ia.).

The plaintiff's intestate while acting as engineer of the defendant's train was killed when the engine left the track. Although the rail was defective, the accident would not have occurred had the deceased not been exceeding the speed limit of four miles an hour fixed by a municipal ordinance. *Held*, that the plaintiff may not recover. *Southern Ry. Co.* v. *Rice's Adm'x*, 73 S. E. 592 (Va.).

The weight of authority holds that a plaintiff's breach of a criminal statute is equivalent to contributory negligence. *Newcomb* v. *Boston Protective Department*, 146 Mass. 596; *Weller* v. *Chicago, M. & St. P. Ry. Co.*, 120 Mo. 635, 23 S. W. 1061. The plaintiff, however, is barred only when his act is the legal cause of the injury. *Berry* v. *Sugar Notch Borough*, 191 Pa. 345, 43 Atl. 240. Upon consideration merely of causation the Iowa case, where the plaintiff's act was mere collateral wickedness, correctly permitted recovery; while the opposite result seems proper in the Virginia case, where the statutory breach contributed directly to the wreck. But because of other considerations the correctness of each case is doubtful. In the Iowa case the plaintiff could not recover if regarded as a trespasser, unless wilfully or wantonly mistreated. *Gwynn* v. *Duffield*, 66 Ia. 708, 24 N. W. 523. The Massachusetts court